

Updated Informative Digest

Existing state law (the Gambling Control Act) grants to the Commission jurisdiction and supervision over all cardrooms (“gambling establishments”) in California and over all persons and things having to do with the operation of cardrooms. The Commission is directed, among other things, to assure that cardrooms are operated in a manner that protects public health, safety, and welfare. Cardrooms are required to maintain “security controls” over gambling premises and operations, controls which are subject to approval by the Commission.

While Cal-OSHA requires that all employers have evacuation plans covering employees, the Commission regulation requires cardrooms to develop and implement emergency preparedness and evacuation plans that cover not only employees, but also patrons.

The regulation, as adopted, requires cardrooms to prepare evacuation plans which address specific threats (such as fires) and contain specified elements. Pursuant to the Gambling Control Act’s requirement to take into consideration the operational differences of large and small establishments, the Commission has a more limited regulatory requirement for cardrooms of five tables or less. All plans must be consistent with state and local laws, and must be approved by either the responsible local authority or the State Fire Marshal, with the Division of Gambling Control reviewing particular aspects of the plan.

The regulation sets forth a date by which cardrooms must comply with the various aspects of the regulation, and provides for sanctions in the event a cardrooms fails to submit a plan or cure an identified deficiency.

Final Statement of Reasons

The Final Statement of Reasons is separated into two parts. Part A summarizes and responds to comments and Part B updates the Initial Statement of Reasons.

Part A: Comments Received and Responses Thereto

No comments were made during the formal 45-day comment period, which occurred from April 9, 2004, through June 9, 2004. No comments were received at or during the public hearing on June 9, 2004.

After the public hearing, informal comments were solicited and obtained from the State Fire Marshal’s Office and the California Fire Chiefs Association. The State Fire Marshal’s Office suggested adding a review by the responsible local authority. This was added in what is now section 12370, subsection (d)(1), review by the responsible local authority. The California Fire Chiefs Association suggested referencing current law, which is incorporated generally into section 12370, subsection (d), requiring compliance with state and local requirements. They also explained that not all local jurisdictions

would be able to provide the reviews suggested by the State Fire Marshal's Office and, even if they did, they might not have the expertise to review everything required by the regulation (for instance, a county fire department would not review a plan for protecting cash, assets, and records). The Commission incorporated these comments in section 12370, subsection (d)(1) and (2), by providing for Division review of areas not reviewed by the responsible local authority, or for State Fire Marshal review of the fire and panic safety provisions if the responsible local authority does not provide reviews. The Commission then commenced a formal 15-day comment period with the changes made due to these informal comments.

No comments were received during the 15-day comment period, which occurred from August 26, 2004 through September 10, 2004.

Part B: Update of Initial Statement of Reasons

The Introductory section of the Initial Statement of Reasons is incorporated as if fully set forth in this section.

Section 12360 is added as a definition section for Chapter 7, Conditions of Operation for Gambling Establishments. In the interests of clarify, Business and Professions Code, section 19805 is reference to define terms used in this Chapter. Section 12360 also clarifies that the use of the term "licensee" will refer to "owner licensee" of Business and Professions Code, section 19805, subdivision (y). This reflects the common usage of the term and will streamline the regulations of this chapter.

Section 12370 is being placed under Article 2, Emergency Preparedness and Evacuation Plan, within Chapter 7, Conditions of Operation for Gambling Establishments.

Subsection (a) defines the terms "critical incident" and "plan," which are used in this section. These terms are not defined in the Gambling Control Act, but are needed to make clear what is required in this section.

Subsection (b) recognizes that many cardrooms are small-scale operations that do not require lengthy or detailed plans. This subsection permits cardrooms with five or fewer tables to create simple plans which meet the basic requirements of protecting those within the cardroom.

Subsection (c) requires cardrooms with five or more tables (and thus not covered by subsection (b)) to prepare and implement a comprehensive plan to protect those within the cardroom. Areas of primary concern, based upon common experience, are listed in subsection (c)(2). To protect against injury and death, licensees must indicate plans made for first aid and emergency medical assistance.

Subsection (d) requires that plans must conform to existing state and local requirements. It provides deadlines for submission of plans in annual license renewal

applications, and submissions of local approval. These dates are set far enough in the future so that licensees will have time to prepare for this change in procedure.

Subsection (e) requires annual training. Training and practice schedules are required because attempting to implement a plan through practices exercises often reveals problems with the plan, which can then be cured before a real emergency happens.

Subsection (f) authorizes the Commission to require changes to a deficient plan; subsection (g) provides that failure of a licensee to have a plan that complies with this Article constitutes an “unsuitable method of operation” within the meaning of the Gambling Control Act, and can result in denial, suspension, or revocation.

Subsection (h) authorizes assessment of civil penalties in order to provide more flexibility in dealing with failures to comply.

Subsection (i) retains the date that the emergency regulations originally went into effect and cardrooms were first required to submit plans.

REQUIRED DETERMINATIONS

LOCAL MANDATE

These regulations do not impose a mandate on school districts. They require some local agencies to review cardroom emergency plans, but any costs for such review are reimbursable as described in Section 12370, subsection (d)(1), and may be recovered through charges to the licensee, pursuant to Health and Safety Code section 13143.5, subdivision (f). In many instances, such as the jurisdictions of Antioch, Chula Vista, Clovis, Colma, Eureka, Folsom, Gardena, Kern, Marina, Marysville, Napa, Porterville, Salinas, San Bruno, San Diego, Stockton, and Woodlake, local reviews are already in effect, based on local ordinance.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATIONS AND REASONS FOR REJECTING THOSE ALTERNATIVES.

The Commission is not aware of any reasonable alternatives that would as effectively achieve the regulatory purpose of protecting the public health, safety, and welfare.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESSES

The Commission is not aware of any reasonable alternatives that would lessen any adverse impact on small businesses.

IMPACT ON PRIVATE PERSONS

The Commission is not aware of any reasonable alternatives that would be more effective or as effective and less burdensome to private persons.